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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

Overcoming Obstacles to)
Telephone Service for) BO Docket No. 99-11
Indians on Reservations)

COMMENTS OF
THE CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION

The Cellular Telecommunications Industry Association ("CTIA")¹ hereby submits its Comments in the above-captioned proceeding. Specifically, the Commission seeks comments on the obstacles to providing wireless telecommunications service to Indian Reservations.

A. Introduction

CTIA supports the Commission's efforts to identify both the obstacles and possible solutions to providing affordable telephone service for Indian Americans on Reservations. For wireless carriers, the most significant obstacle to offering basic telecommunications service is the Commission's present implementation of Universal Service support mechanisms. With the appropriate Universal Service support, wireless carriers may provide telecommunications service at reasonable rates to Indian Reservations. Therefore, the FCC must do that which is within its authority to do: 1) grant eligible telecommunications carrier ("ETC") status to wireless carriers for receipt of

¹ CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers all Commercial Mobile Radio Service (CMRS) providers and manufacturers, including 48 of the 50 largest cellular and broadband personal communications service ("PCS") providers. CTIA represents more broadband PCS carriers and more cellular carriers than any other trade association.

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Universal Service funds for providing service on Indian Reservations, and 2) provide for timely subsidy payments.

The FCC, in conjunction with state governments and tribal governments must also work through the legalities of using federal support for the provision of wireless telecommunications service to sovereign, yet domestic dependent nations. Indian tribes are guaranteed the right to self-government and to exercise inherent sovereign powers over their members and their territory.² Therefore, the Commission must work with Indian nations to ensure certainty and consistency between federal laws and tribal laws with respect to wireless carriers' provision of telecommunications services on Indian Reservations.

B. The Challenges to Providing Wireless Telecommunications Service to Indian Reservations Are Cost of Service and Lack of Cost Recovery

Many Reservations are characterized by large tracts of thinly populated and rural areas.³ The Department of the Interior ("DOI") publishes the acreage, by state, of lands under the jurisdiction of the Bureau of Indian Affairs. As of December 31, 1996, the total acreage of tribal lands in the various states was 45,266,584.28. The following states have a million or more acres of tribal lands: **Arizona** (20,370,974.73), **Montana** (2,534,379.10), **Nevada** (1,149,492.08), **New Mexico** (7,500,567.57), **South Dakota** (2,617,894.54), **Utah** (2,297,770.10), **Washington** (2,170,345.68) and **Wyoming**

² Exec. Order No. 13,084, 63 Fed. Reg. 27,655 (1998).

³ See Department of Interior Lands Under Jurisdiction of the Bureau of Indian Affairs, as of December 31, 1996; See, U.S. Bureau of Census, 1990 Census Population, American Indian, Eskimo, and Aleut Population, Table No. 51.

(1,794,589.22).⁴ According to the 1990 Census of Population, the total “American Indian Population Living on Selected Reservations and Trust Lands and American Indian Tribes With 10,000 or More” persons is 1,878,285.⁵

As a general matter, providing wireless telecommunication services to so few people over such vast areas of land is costly. Recognizing this fact, Chairman Kennard, during the FCC’s January 29, 1999, hearing on this issue, aptly noted the beneficial role that wireless service could provide for increasing penetration rates for affordable basic telephone services:

We can’t just use the traditional ways and the traditional solutions that we’ve seen. We know, because of the large, vast areas in Indian country, that it’s going to be prohibitively expensive to put in telephones in the traditional ways. But we have technology. We have satellites. We have cellular phones. There’s got to be a way we can bridge between the two and move forward.⁶

There seems to be little disagreement that the 30-50% penetration rates of basic telephone service on Indian Reservations as compared with the 93% of American homes with telephones should be remedied. As Chairman Kennard has recognized, cost is a prominent factor and wireless technologies may provide a relatively better, more cost-effective solution. Despite the fact that wireless services may provide a more economical alternative, cost is still an important factor for wireless companies. In recent testimony on Senate bill S.401, which addresses business development and trade promotion for

⁴ Id.

⁵ The 1997 U.S. Census Bureau numbers for the total American Indian, Eskimo, and Aleut populations is 2,322,000. See, Census Bureau, Statistical Abstracts of the United States: 1998, September 29, 1998, Table No. 12.

⁶ Chairman William Kennard, Public Hearing, January 29, 1999, Albuquerque, New Mexico.

Native Americans, Western Wireless Corporation indicated that “the challenges to delivery of telecommunications service to Indian Reservations are rooted in the cost of providing service and the lack of a cost recovery mechanism which allows competitive carriers to provide affordable telecommunications service.”⁷

C. The Commission Has The Authority To Grant ETC Status To CMRS Carriers To Facilitate Wireless Telecommunications Services On Indian Reservations

Universal Service support is only available for eligible telecommunications carriers as designated pursuant to section 214(e).⁸ Section 214(e) provides for the designation of ETC status by State commissions and by the FCC.⁹ Pursuant to Section 214(e)(2), state commissions grant ETC status to common carriers for service areas designated by the state.¹⁰ Pursuant to Section 214(e)(3), unserved areas that request services supported by Federal Universal Service support may receive such services from an ETC designated by the FCC, with respect to interstate services, or by a State commission, with respect to intrastate services.¹¹

Currently, many Indian reservations are unserved areas because few, if any, common carriers will provide basic telecommunications services. Wireless service areas may not be coterminous with state boundaries, and therefore are interstate in scope. The interstate nature of wireless calling and service areas are well documented in the

⁷ Western Wireless Corporation, Testimony on S.401, “To Provide for Business Development and Trade Promotion for Native Americans,” May 6, 1999.

⁸ Communications Act of 1934, Section 254(e).

⁹ Communications Act of 1934, Section 214(e)(1)&(2).

¹⁰ Communications Act of 1934, Section 214(e)(2).

¹¹ Communications Act of 1934, Section 214(e)(3).

jurisprudence of Section 332 of the Communications Act, as well as in proceedings before the FCC such as wireless number portability.¹² The Communications Act of 1934 clearly indicates that the FCC has the authority to designate an ETC for interstate services for unserved communities.¹³

Since the FCC may properly grant ETC status to wireless carriers for service to Indian Reservations, the Commission's failure to do so helps to retain the current deplorable lack of basic telecommunications services in Indian country. As indicated above, cost recovery is key to facilitating the provision of wireless telecommunications services on Indian Reservations. Without Universal Service support, the delivery of wireless telephone services at affordable rates is not economical. The Commission has the authority to alleviate the economical constraints that inhibit a private company's ability to offer service in high cost, unserved areas. The Commission must exercise that authority commensurate with its policy goals of removing obstacles to service on Indian Reservations.

One impediment that wireless carriers encounter in their quest to offer service in high cost areas is state commissions which improperly condition ETC status for wireless carriers. In some instances state commissions rely on standards that ignore the salient differences between wireless and wireline services, effectively discriminating against wireless carriers.¹⁴ The Commission must act to prevent such state actions which

¹² See, Comments of the Cellular Telecommunications Industry Association, CC Docket No. 95-116, filed August 10, 1998.

¹³ Communications Act of 1934, Section 214(e)(3).

¹⁴ See, Petition for Preemption of an Order of the South Dakota Public Utilities Commission ("PUC"), Western Wireless Corporation, filed June 23, 1999.

exclude wireless carriers from Universal Service support and prevent the roll-out of valued services in high cost areas. Separate and distinct from the actions of state commissions, the FCC has the authority to grant ETC status to wireless carriers to provide affordable basic telecommunications to Indian Reservations.¹⁵

D. Universal Service Support Should Be Paid In A Timely Manner

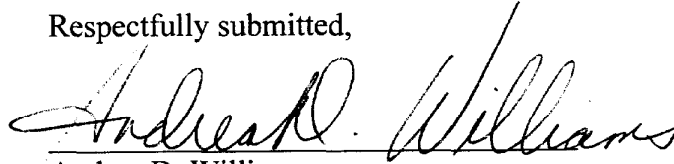
Carriers must receive Universal Service support in a timely manner if they are to offer affordable telecommunications services to high cost areas due to the receipt of Universal Service support, it follows that such support must be timely. In some cases, support payments to carriers have been as much as two years in arrears. Such delays are unacceptable and jeopardize a carrier's ability to continue to offer service in high cost areas. As a matter of policy, consistent with the FCC's goals to remove obstacles to telecommunications service on Indian reservations, the Commission must ensure timely payment so that carriers may have confidence in the program and be able to plan for the rollout of services to unserved communities. The FCC should reexamine its payment processes in order to ensure timely payment of Universal Service support.

¹⁵ Communications Act of 1934, Section 214(e)(3).

E. Conclusion

For the foregoing reasons, the Commission should exercise its authority to grant ETC status to wireless telecommunications carriers which can offer viable basic telecommunications services to Indian Reservations at affordable rates.

Respectfully submitted,

A handwritten signature in cursive script, reading "Andrea D. Williams". The signature is written in dark ink and is positioned above the printed name and title.

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